Exhibit USAbt-G

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

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IN RE: PHARMACEUTICAL	)	MDL NO. 1456
INDUSTRY AVERAGE WHOLESALE	)	CIVIL ACTION
PRICE LITIGATION	)	01-CV-12257-PBS
THIS DOCUMENT RELATES TO	)	
U.S. ex rel. Ven-a-Care of	)	Judge Patti B. Saris
the Florida Keys, Inc.	)	
v.	)	Chief Magistrate
Abbott Laboratories, Inc.,	)	Judge Marianne B.
No. 06-CV-11337-PBS	)	Bowler

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Videotaped 30(b)(6) deposition of

THE STATE OF MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE BY JOSEPH L. FINE

Baltimore, Maryland

Tuesday, December 9, 2008

9:00 a.m.

A. I'm generally aware, yes.

Q. What is your understanding?

A. What I understand is that there was reported an inflation of price proffered to the compendia that was extremely -- I won't say the word extremely -- but significantly higher than what would normally have been reported from the manufacturer to the compendia for listing as an AWP.

Q. When you used the term extremely higher --

A. I take that back. Significantly.

Q. What do you mean by that?

A. In working with drug pricing for all these years it was understood that the average wholesale price fell within certain margins above the cost sold to the wholesaler. The listed price was within a certain percentage of what the wholesaler paid for it. And as far as reimbursement to providers methodologies were set to address that to estimate acquisition cost to providers. When a price becomes greater than that understood margin, I call that significant.

Q. What percentage did the department expect to be the discount from AWP?

MS. YAVELBERG: Objection, form.

A. I don't understand your question.

Q. You testified that you always understood, the department always understood there was some difference between what providers were paying for drugs and what AWPs were. I'm paraphrasing.

A. Okay.

Q. Is that a fair characterization?

A. Yes.

Q. What was the extent of the difference that the department expected?

A. Generally the department understood that the price was approximately 20 percent higher than that which the wholesaler purchased it for, the listed price.

Q. Is it your testimony on behalf of the department that that 20 percent figure applied to generic drugs?

A. No. It was for single-source drugs.

Q. What did the department expect to be the percentage difference between AWP and provider acquisition cost for generic drugs?

A. We thought it to be higher, perhaps 30 to 40 percent above cost. Uncertain of that amount.

Q. You're what?

A. I was -- we were uncertain of the exact amount which was reported in the compendia.

Q. Why were you uncertain of the amount?

A. Because we weren't certain of the true cost of generic drugs, either purchased by the wholesaler or the provider.

Q. Do you have an understanding that the discounts from AWP could vary considerably from generic drug to generic drug?

MS. YAVELBERG: Objection, form.

A. I was not -- I did not concern myself with that per se. I never addressed it.

Q. Did you do anything to prepare for today's deposition to investigate the answer to that question?

A. No.

Q. Didn't talk to anybody else in the department --

A. No.

Q. -- correct?

A. Yes.

Q. And what you recall is the 1985 --

A. Right. And this was -- we read it. We understood it. But HCFA's responsibility -- we held out that it was a reference point. It wasn't necessarily adamant that we take what came out as results. And we held a $3.70 dispensing fee even though it was four dollars and change for the results that came out. And we held that line.

Q. Who made the decision to hold that line?

A. The department. It wasn't me personally. It was the department.

Q. Why did the department decide to hold the line?

A. Because we felt that the $3.70 dispensing fee was adequate.

Q. And under what basis did it have for that?

A. Because we also felt that an average dispensing fee is a misnomer. A very efficient pharmacy can process and handle drug product, whether it be a system by which they can dispense drugs less expensively, a smaller pharmacy or a less efficient

pharmacy would have a higher cost. And we didn't believe that averaging it out was necessarily the right answer to that because why pay for -- why give the bonus to the efficient for the inefficiencies of the other. And we felt that 3.70 was appropriate.

Q. And the department never updated its findings on dispensing costs?

A. No. We changed our dispensing fees as time went on.

Q. Sorry. You never updated your survey findings of what it cost to dispense a drug --

MS. YAVELBERG: Objection, form.

Q. -- correct?

A. Are you saying did we go through another survey?

Q. Correct.

A. I don't recall another survey.

Q. Do you recall a survey that's been done in the last two years in Maryland? Are you familiar with that?

A. Yes. I've heard of it. I wasn't part of that. And that was a result of the Thornton study.

been involved?

A. Because whatever policy change there is it indirectly or directly affects how operations works, operates. That's redundant.

Q. I'm going to skip around a little bit. Now, in terms of dispensing fees -- we talked about that some this morning. Do you remember?

A. Mm-hmm.

Q. Was Maryland familiar with the dispensing fees that commercial customers paid to pharmacies?

A. Yes.

Q. And did you know them to be higher or lower than the dispensing fee paid by Maryland?

A. Categorically lower.

Q. And did that play any role in Maryland's evaluation of its own dispensing fees?

A. No.

MR. TORBORG: Objection.

Q. I'm going to ask you to dig and find Abbott 458, which is the GAO report from 1993.

A. Okay.

Q. Have you got it?